

# TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman  
Deborah Taylor Tate, Director  
Pat Miller, Director  
Ron Jones, Director



460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

October 9, 2002

Mr. Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Powell:

The Tennessee Regulatory Authority recently determined that Bellsouth sufficiently complied with the requirements set forth in Track A and the 14 Point competitive Checklist and therefore recommends that the Federal Communications Commission (FCC) grant BellSouth's 271 application to provide in-region interLata services in Tennessee. As the Pre-Hearing Officer, I am writing this letter to provide some additional insight and to emphasize a few points to the Commission.

As you may know, this Recommendation comes after the submission of three (3) separate applications by BellSouth in Tennessee, including over 80,000 transcript pages and proceedings held over five (5) years. As you may also be aware, during the 2001-2 Legislative Session, the Tennessee General Assembly drastically amended the statutes regarding the Tennessee Regulatory Authority, including the appointment of an additional Director, resulting in a four (4) member agency. The Legislature, by statute, also instructed that the Authority would sit in panels of three (3) and that cases would be randomly assigned. The TRA Directors immediately developed a workable policy to meet the requirements of the law while keeping in mind judicial economy and timely review of pending matters.

As a new Director, and specifically as the Pre-hearing Officer in this Docket, I feel a certain responsibility to apprise you that although newly appointed we completed a thorough review of the record. We were fortunate to have seven other State Commission proceedings and recommendations to review, as well as the Georgia/Louisiana Orders from both the FCC and the Department of Justice.

As the Pre-Hearing process unfolded, it was apparent that the parties had agreed to many issues - substantive and procedural - and actually stipulated to a number of issues previously. In addition, in light of an extremely difficult budget year, and given the already lengthy history of this review in Tennessee, a consensus seemed more productive than another extended and expensive hearing. The parties were amenable to the suggestion of a "paper hearing", entered into settlement negotiations, and this collaborative, dispute resolution process resulted in what I believe to be a well-reasoned

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and fair agreement which allows for continued competition, a strong set of performance measures, self-enforcement of penalties, and a commitment by the TRA to insure an expedited process as issues arise post-271.

Having newly appointed Directors - rather than setting Tennessee back - actually may have encouraged a fresh approach. Likewise, the parties and the industry seemed to take advantage of this opportunity and hopefully will continue to be more collaborative in the years ahead in order to fully allow the Congressional intent of competition to flourish. We will all need to exhibit new approaches in an industry characterized by innovative technological change and agendas oftentimes involving policy-making rather than purely rate-setting.

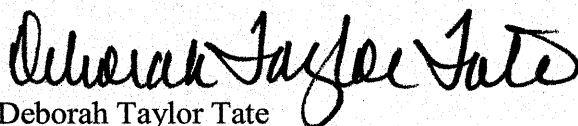
The attached Advisory Opinion, I believe, will provide sufficient evidence that will support our conclusion that BellSouth has met the statutory requirements of Track A and the 14 point checklist. While we recognize that there is room for improvement on many sub-metrics included in the Performance Measurement Plan adopted by the TRA, we trust that as other states have noted, performance will continue to improve or penalties will immediately ensue.

It is important to note that our adoption of the Florida Performance Measurement Plan includes the addition of Tennessee specific data. In the interest of both time and expense, it seemed prudent to accept this well-reasoned Florida plan which was consistent with much of what the TRA staff had originally proposed as a Tennessee Performance Measurement Plan in the past. We hope that our staff will continue to be involved as such Plans evolve and new issues arise. We would welcome the opportunity to serve should you establish some type of Regional Committees regarding post-271 issues.

We are grateful for the parties' willingness to negotiate in good faith. The TRA Staff and the parties should be commended for their work in a less litigious, more collaborative environment in order to foster competition, improve services and encourage innovation for the citizens of Tennessee.

We respectfully submit this Advisory Opinion and hope that you will find it helpful and informative in your deliberative process.

Sincerely,



Deborah Taylor Tate  
Pre-Hearing Officer